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ABSTRACT

In the United Kingdom, professionals are not legally required to report suspected cases of child abuse. The Children Act (1989) specified that local authorities have a duty to safeguard the welfare of children, but did not make reporting mandatory. It identified specific tasks for teachers in the process of reporting and established joint communication between schools and social service departments. The act moved schools and teachers to acknowledge the responsibility they have in child protection. Government guidelines recommended that schools appoint a staff member who would have responsibility for coordinating action within the school and form the liaison with other agencies. Major concerns voiced by teachers about these directives include: (1) the need for more communication with social service departments; (2) a lack of knowledge about procedures for new teachers; (3) differences of opinion between teachers and social workers about the child's experience of abuse; and (4) an increase in the number of cases for teachers to handle without an increase in supportive services. The paper suggests that for the process to be successful, teachers must feel confident in knowing what to look for in child abuse, social workers must respect the professional judgment of teachers, and structures must be in place to facilitate referrals. (Contains 28 references.) (JDM)

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CROSS CULTURAL PERSPECTIVES ON EDUCATORS' REPORTING PRACTICES OF MALTREATMENT

A discussion paper on the situation in England

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In the UK professionals working with children and their families are not legally required to report suspected cases of child abuse to the authorities. The most significant piece of legislation concerning the welfare of children is the Children Act (1989). When it was being considered the idea of mandatory reporting was discussed and subsequently dismissed on the basis that the organisation of the welfare, medical and related services were organised in such a way as to render it unnecessary. (See Bell and Tooman (1994)). Although the system which now exists has been referred to as being 'quasi-mandatory'.

The Children Act 1989 established the welfare of the child as the paramount principle. The Act specifies that Local Authorities have a general duty to safeguard and promote the welfare of children within their area who are in need and so far as is consistent with their duty to promote the upbringing of such children by their families. Local Authority Social Services Departments (SSDs) are subject to specific statutory duties in relation to children, namely to investigate reports of children suffering, or likely to suffer, significant harm and to take appropriate action to safeguard or promote the child's welfare. The Act also made it clear that local authorities have a responsibility in relation to children in need of preventative services and placed a duty on them to respond to this need.

The government guidance that accompanied the Children Act identified specific tasks for teachers and school nurses and set the context for joint working between schools and social service departments. But there are inherent difficulties which arise from the wording of key phrases in that Act. In addition to some other areas of difficulties which will be explored later, there is no doubt that the interpretation of 'significant harm' and judgements over the concept of 'at risk' have served to complicate inter-professional dialogue.

However it is important to go back at least a little while to explain the context of the Act. The importance of the school in protecting children and in supporting their welfare has long been recognised. But it took on a particular emphasis in the 1980s as a result of the inquiries into a number of child deaths. The Chairman's report on the Lucy Gates inquiry (1982) commented on the need for schools to be able to recognise child abuse. The Richard Fraser (1982) inquiry referred to the lack of a real

understanding by school staff on the procedures which should be followed in the case of suspected injuries. The Beckford Report (1985) drew attention to the interaction between a child's private life and its response to school. It went on to comment that the '*fear ... of crossing the vague boundaries which divide the social worker from school' inhibits each side from a collaboration which is necessary to them both*'. Soon after that report Peter Maher (1987) wrote that 'it is an unfortunate fact that the vast majority of teachers do not understand their role in this area of work, but worse still that other professionals do not understand the particular role of teachers.'

The common theme in these and other inquiry reports was that there were significant short-comings in inter-professional and inter-agency communication. Since then there have been various developments designed to address these concerns. Child abuse inquiries, such as those detailed above, clearly highlighted the need for improved co-ordination of this work and were instrumental in every local authority setting up an Area Review Committee, which subsequently became known as Area Child Protection Committees (ACPC). Amongst the duties of ACPCs are the establishment, maintenance and review of local inter-agency guidelines on procedures to be followed in individual cases; the scrutiny of arrangements in relation to inter-agency liaison and the monitoring and scrutiny of work related to inter-agency training. The duty of local authorities, education authorities, housing authorities and health authorities to co-operate in their functions to support children and families is set out in Section 27 of the Children Act 1989.

Measures designed to clarify and support the school's role also emerged from the then Department of Education and Science (DES) and subsequently the Department for Education and Employment (DfEE). The Beckford inquiry (1985) emphasised the importance of the school as part of the management of the child abuse system and recommended the appointment of a designated child protection teacher in every school, which was subsequently adopted in Governmental guidelines. Circular 4/88 (DES, 1988) recommended that ' a senior member of a school's staff should have responsibility, under the procedures established by the LEA, for co-ordinating action within the school and for liaison with other agencies'. Some seven years later Circular 10/95 (DfEE, 1995) set out the responsibility for child protection issues within education departments, schools and colleges and gives guidance on links with

other agencies involved in the protection of children. Each LEA was directed to appoint a senior official to have overall responsibility for the co-ordination of policy, procedures and training **and** for making sure that procedures are set out in authority - wide documentation. The guidelines also reinforce the recommendation that all schools have a senior member of staff as the designated and named child protection liaison teacher/co-ordinator who has been adequately trained.

Another key development was the document *Working Together Under the Children Act, 1989* (Home Office et al, 1991), where the key role of schools in protecting children from abuse was recognised:

"Because of their day-to-day contact with individual children during school terms, teachers and other school staff are particularly well placed to observe outward signs of abuse, changes in behaviour or failure to thrive."

The clear message from *'Working Together'* was that action will be most effective when taken in collaboration with other agencies.

Local procedures may differ between areas but there is a high degree of uniformity over the local education authorities' responsibility to appoint a specific person with responsibility for child protection and for each school to have a designated teacher with this responsibility. In the early to mid 1990s central government funding was made available to enable local education authorities (LEAs) provide training in child protection for designated teachers. Although many LEAs were then concerned about how to maintain this rolling programme after the funding had ceased some how they usually have been able to because it is seen to be a priority. There are schools and local education authorities that believe **all** teachers should have regular training about child protection and many local education authorities include it as part of the professional training which is a requirement for all newly qualified teachers. There is also a requirement within initial teacher training courses for students to be made aware of their responsibilities in relation to child protection. (DfEE, 1998)

But this is without a system of mandatory reporting. In the years leading up to the introduction of the Children Act mandatory reporting was considered and rejected.

According to Berridge (1997) it was felt that the structure of health and social service provision rendered mandatory reporting unnecessary because of the built-in channels of communication and the nature of professional accountability. It was argued that the plans to enhance interprofessional communication by improving the administrative procedures supported this decision.

However when we examine the reality of the last decade it is possible to identify a number of factors which have impinged on the situation. It is useful to begin to disentangle those which are common across the cultures represented around this table and those, if any, which may be unique to my country. In this way it may be possible to work towards an assessment of the true significance of mandatory reporting.

It has been argued that the development of state intervention in childhood reflects the growing recognition of the child as a person with rights. (See, for example, Rose, 1989). Although this has been questioned in light of the fact that it is a society that has long stood out against installing a Minister for Children. It is far clearer that those who framed the Act were hoping to achieve a better balance between child protection and family privacy. The Introduction to the Act states:

The Act seeks to protect children both from the harm which can arise from failures or abuse within the family and from the harm which can be caused by unwarranted intervention in their family life. There is a tension between those objectives which the Act seeks to regulate so as to optimise the overall protection provided for children in general.

The law makes it clear that intervention must positively promote the child's welfare and will be in the child's best interests. Finding that a child has experienced abuse or neglect is not sufficient or even necessary. The number of children who are recorded on these registers is not the same as the number who will have experienced abuse or neglect.(See Corby, 1990). Registers will also contain the names of children who have not been abused or neglected but who are judged to be at risk of being so treated. They will also not contain the names of children who have been abused or neglected but who are not seen to need further protection. In order for a child to be placed on a

Child Protection Register [1]a Child Protection Conference[2] would have to find that to be a necessary and useful action.

Why was the State taking a step back from intervening in the lives of families? In the mid to late 1980s there were concerns expressed that intervention was occurring too readily and too frequently in the lives of families without always producing attendant benefits. There were a number of well-publicised cases of children being removed from their homes without sufficient reason and causing damage or potential damage to the children and to their families. The most famous case occurred in Cleveland, a town in the north of England. In brief 121 children were removed from their families between February and July 1987 on the grounds of suspected sexual abuse following diagnosis by two paediatricians working in the same hospital. All but 23 were returned home. There was an official inquiry into the case conducted by Lord Justice Elizabeth Butler-Sloss (Butler-Sloss, 1988). The conclusion was that social workers had acted too hastily. Although the importance of inter-agency consultation was emphasised, the popular message was that social workers were being castigated for interfering unnecessarily in the lives of families. There were other cases where children had been reported as being physically abused and/or neglected and who were left at home where they suffered further abuse, some of which proved fatal. But there were also cases where children were removed from home to be subsequently abused by residential care staff or foster parents.

So at a time when legislation was being formulated which put children's welfare at the centre there was a very public questioning of the competency of the key agency in the proposed procedures. It is very difficult to measure the damage which was inflicted on the social work profession by this and other public vilifications of individuals who have been at the centre of child abuse tragedies. At a time when teachers' role in relation to child protection was being more clearly defined the possible short-comings of the agency with which they were expected to work more closely was head-line news.

It has already been noted that the Act made it clear that local authorities have a responsibility in relation to children in need of preventative services and placed a duty on them to respond to this need. However local authorities have continued to give

priority to children in need of protection because they have not had the resources to do otherwise. TheAudit Commission report (Audit Commission, 1994) carried out an inspection of eight local authorities between 1993 and 1995 and found that cases of children in need were seen as having a very low priority unless they met the definition of abuse or neglect. The increasing pressure on the services meant that this category of children tended to receive a lower level of services than their condition demanded. There has continued to be a shortage of services to support children who are left at home, even though this has long been recognised as a major shortcoming of the system. Priority was given to children who were seen to need protection and in many cases referrals were made to child protection services to gain access to services. So although it was the intention of the Act was to identify children in need and provide services for them a large number of families who should have been taken along this route found themselves subject to investigatory procedures. The demand for services overwhelmed many local departments and continues to do so. Having a child protection conference and subsequent entry on a child protection register was seen to be the only way of targeting resources on the child and family. But even then more attention was given to the assessment of risk than to the assessment of need. Sharland et al (1996) found that one year after a report only one third of children who had experienced sexual abuse had received any appropriate supportive intervention and most of those that did happen were very limited. This has been confirmed by work conducted over the past year. (Baginsky et al., 2000)

In an effort to cope, and hopefully to make an appropriate response to families' needs, training of child protection workers has moved to incorporate not only the identification of an abused or neglected child, but also the identification and assessment risk and of the most appropriate response. So while a case may pass the threshold for an investigative procedure it may be judged that it should be treated as one where a family support response should be made. But it is far from clear how the shift in emphasis will have any impact without significant additional resources. One major impediment to any improvement is the considerable pressures on social services and the fact that they are severely under-resourced.

This is being aggravated by the chronic shortage of experienced (and now inexperienced) social workers. A variety of reasons (some of which being the ones

debated in this paper) have contributed to the almost haemorrhaging of social workers out of the statutory services. In some cases the voluntary services have been the beneficiaries but all too often the expertise has been lost altogether.

A further aggravating factor has been the many reorganisations which social service departments have experienced. In some of the most deprived and disadvantaged areas often under-resourced services have been judged to fail those they serve, management has been changed, restructuring imposed, and targets raised, along with the stress level of those expected to meet them. New solutions are suggested to meet a growing demand and when the solutions fail to deliver the cycle starts over again.

But organisational change has not only been a feature of social services. Health and education have had their own reorganisations. As far as schools are concerned at the time when a greater level of co-ordination would have supported the implementation of Working Together increasing autonomy was given to schools. Some state schools moved outside the control of the LEAs altogether. Although they have now been brought back under the wing of LEAs it meant that they were not automatically part of the training and support network. Although it is very unlikely that any LEA would have refused information and support to one of these schools if there was a child protection concern, and some LEAs continued to offer training and much else to these schools, it did make co-ordination and communication more difficult. Even for the majority of schools that stayed with their LEAs budgets were increasingly devolved to schools and they, in turn, could chose which training to buy into. So even when LEAs provided training it was not always taken up.

Discussions with people around the country consistently contain reports about poor representation of teachers on multi-agency groups and at training sessions. It should not be interpreted as lack of interest but it should be seen as schools deciding on their immediate priorities. At the very time when these changes were being introduced schools have also been under considerable pressures as they have adapted to the introduction of a National Curriculum and national testing of all children at the ages of 7, 11 and 14 as well as the public examinations taken by students at 16 and, for those still in education, at18. They have also become subject to very public scrutiny of their test results when they are published in national and local newspapers as

league tables. They are regularly inspected by the teams from the Office for Standards in Education (Ofsted). Once again the reports are made public. The futures of schools and teachers depend on their contents. We know enough about learning to understand that the brain learns less effectively when it is under stress. Should we also conclude that teaching is less effective when teachers are under stress? An inquiry in to the death of a teacher with 36 years experience heard how she had committed suicide after being criticised for a lesson that 'lacked pace' during one such inspection. We are beginning to see some of those who have been put into schools as 'super-heads' to 'turn schools around' admit that it can be an almost impossible task and leave; others are giving up because they are having to reduce the level of exclusions and keep students in school whom they consider to be a potential danger to others as well as to themselves; and we have a shortage of people coming on to courses to be the next generation of teachers. It would be false to claim that there were aspects of our education system that had not needed reform but it has been extensive and unremitting for too long. It is certainly not a scenario where pupil welfare will necessarily get the priority which it deserves.

We know that child abuse occurs in all classes and cultures, but it does not serve any purpose to ignore the fact that many of the schools which are finding it difficult to meet the Government's attainment targets will contain a higher proportion of students who are seen to be in need or at risk. In some cases a school's definition of these terms will be relative. If a child does not have an appropriately warm coat on a winter's day and has not eaten breakfast does this reflect the poverty of the home or does it indicate neglect? It certainly indicates a child in need and action should be taken within the 'Working Together' guidelines. But in an area where there are many such needy children how long will it take to get an initial reaction and then to get a co-ordinated response.[3]

There are parts of the country where communication between social services and schools is very good and this usually reflects how much attention has been devoted to making sure it works. There are also individual schools and social service teams that have built up excellent working relationships over the years. But the reality is that this is not usually the case. Many schools report having to wait an inordinately long time for Social Services to respond when a referral is made or being left in the dark as

to the progress of a referral. There are still reports from social services about the inappropriateness of many of the referrals from schools. But is that surprising when I was told in the last week by a senior member of the social service department in one of our large cities that schools have never been given any idea of their threshold for action?

This is an important area and its significance was identified in Birchall and Hallett's work (1995). They explored the difficulties involved in arriving at a consensual definition of referral thresholds, leaving some schools confused by Social Services' failure to intervene in cases (or to carry out an initial investigation and decide that further action was not required) where a child protection issue had been identified and reported. This is an area to which Murphy (1995) has also drawn attention. He calls it the 'double bind' present in the British system whereby different definitions of what is serious abuse can lead to child protection referrals from the Education Service not being properly processed or not being made in the first place:

"*Successful referrals rely, to a large extent, on educational personnel understanding the definition of 'significant harm' which is used by the main processing agency - the Social Services Department.*"

The responsibility given to schools by the Children Act 1989 and the subsequent guidance represented a move towards recognising the role which schools had assumed they had for many years, although this is not to say that it was uniformly accepted. There were certainly teachers who believed they were there to teach and not to be social workers, alongside those who saw official interference as a damaging prospect for families whom they knew and judged to be coping within the limits of their abilities. Echoes of these feelings can still be heard although they have grown a great deal fainter. It is probably safe to assume that most teachers now recognise that they have this responsibility. In a survey of 400 schools some two years ago there was certainly a willingness amongst designated teachers to be involved in this work and a desire to become more effective partners in it. There were, however, many concerns which they expressed. One of the major ones being how best to improve their communication with social service departments (See Baginsky, forthcoming).

It is clear that the vast majority of schools and LEAs have established the required structures and procedures in line with the guidelines, but it is still not clear how effective these have been in improving the identification and prevention of child abuse . Although Elliott (1996) has expressed his concern about the low rate of referral from schools, his study was conducted within one Education and Library Board in Northern Ireland and in discussions with the author he has emphasised the impact which sectarian troubles have had on this process.

Kirkland et al (1996) also report their own experience, which is that knowledge of child protection procedures and an awareness of the issues have not reached all staff in schools and express their concerns about the implications of this. Evidence which they have gathered indicates that the larger the school in terms of staff and pupil numbers, and the higher the staff turnover, the more serious the problem becomes. Their bleak conclusion is that it is 'likely that in many of the country's schools abused children are not being identified and dealt with in a manner which is consistent with the law and locally agreed procedures.' It is not apparent to what extent this is due to the pressures which have been on schools in recent years to respond to so many requirements imposed by Government. It is possible that some have resorted to meeting the bare requirements, particularly in those areas of children's lives which are not directly associated with their place in public examination league tables or expanding or maintaining the student number on roll. All in all it paints a rather confused picture of what is actually going on. But it is evident that many schools are faced with ever increasing concerns about students in their care and that they do not always feel they have the adequate expertise, support or resources to begin to address the problems.

There will be difficulties associated with inter-agency communications and the gap which arises when translating theoretical understanding of child protection into effective practice. Zellman (1990) interviewed child protection staff in six states in the USA and found that teachers often irritated other professionals because of their high referral rate. Teachers were said to report cases which were not sufficiently serious to trigger a high priority response. Yet teachers had been drawn into the child protection process because of the belief that they would be able to pick up early signs of abuse before they become serious. Other US studies had indicated that teachers

there generally have a poor reporting rate. In England and Wales teachers have been said to be on the periphery of the child protection process (see Birchall with Hallett, 1995). This was on the basis of work carried out in the early 1990s, soon after the introduction of the Children Act and the DES circular (4/88) which began to specify and clarify the role of education in the child protection process. Schools should now be playing a major role in the referral process. The responses received from schools in the survey referred to above (Baginsky, forthcoming) show very little reluctance on their part to be involved in this process but there are evident strains, some compounded by failure of communication and perceived lack of support. Both would indicate that Birchall and Hallett's assertion that schools are not well integrated into the network continues to be true.

There are clearly other issues which demand an examination. One author has recently described as a 'chasm' the divide which too often exists between schools and teachers on the one hand and the non-educational services to children on the other. (Gilligan, 1998). He goes on to quote Jackson's (1994) observation on *the deep split between education and care which runs through all our institutions and services for children.*

The number of child protection cases has increased multi-fold over the past 30 years in the USA. Giovannoni (1995) accounts for this by pointing to the expansion in the 1970s of the number of professionals who became mandated to report suspected abuse, alongside the inclusion of sexual abuse and neglect within the legal definition. (The number of reports from non-mandated individuals also began to rise.) She says that this increase in cases was not met with anything like the level of resources required. This in turn constrained the ability of the child protection services to respond.

In1987 the State of New South Wales introduced mandatory reporting for teachers and other school professionals (See Lamond, 1989). There was a significant increase in the percentage of reports from teachers. But was this the effect of mandatory reporting or greater amount of training and awareness about child abuse that surrounded its introduction?

Mandatory reporting was introduced as a response to a need to protect children. Children were seen to be at risk because professionals were not reporting their suspicions of abuse. As we have seen there has been an increase in reporting since its introduction. But the incidence of child abuse registration has increased significantly in the UK over the same period. The awareness of child abuse, changes in social work practice, legislation and the emphasis on multi-agency approach have all contributed to this. Parton (1985) has argued that there is a relationship between referral rates and the publicity which surrounds child abuse, death of children from abuse, the trials of abusers, and the subsequent public inquiries.

On both sides of the Atlantic the focus then shifted to ways to reduce the demand for services. Greater emphasis on screening processes and risk assessments and the development of criteria for not responding to reports, not investigating them or where they are investigated limiting the instances where further action will be taken. In both countries this has led to attacks on the reporting system. There are reports of too many unfounded or unnecessary reports. There is a tendency to view these as 'false reports' and conclude that there is too much intrusion into family privacy and / or that reporting is a mechanism for gaining control over the poor and socially disenfranchised. The threshold for intervention has risen.

What seems to be more important than any comparison of mandatory v. non-mandatory systems is the attitude which accepts that professionals have a duty to maintain the welfare of children and to interfere if there is any concern that this is being jeopardised in anyway. But this can be seen to challenge the notion of the inviolability of the family and that, in turn, is a cultural divide. It can also be seen to challenge individual's professional right to be able to hold on to concerns and work with them. As far as schools are concerned if the primacy of welfare is not to lose out to these competing considerations there are certain pre-requisites which need to be in place:

- All teachers must feel confident that they know what to look for and how to respond
- Social workers must respect the professional judgement of teachers and respond appropriately even if the referral is not one which will lead to further action

- There should be the opportunities for both professions to gain a better understanding of the other
- Structures should be in place to facilitate both referrals and subsequent contact which will take account of the fact that communication between teachers and social workers in the past have often failed because the nature of their work means they do not sit next to telephones.

But this is all predicated upon a high level of co-operation between services. In recent years organisational and financial shifts have led to a greater level of inter-professional competition and resource chasing. Both professions are operating under considerable pressures. The welfare of the child will only assume the precedence which it has been given on paper if they are given the time and resources to meet the demands which that will create, as well as to the effective training of all professionals who are expected to work together. It seems that we may not yet have a training plan which meets this end and until we have the there is little hope of significant progress.

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[1] Child Protection Registers list children who have been abused or neglected **and** who are judged to need on-going multi-agency services to prevent further abuse or neglect. When registration occurs a written multi-agency child protection plan should be produced.

[2] Child Protection Conferences bring together relevant professionals and the family to share information, assess risks to the child and make recommendations for future action The main decision to be made by the conference is whether or not to 'register' the child.

[3] In late 1999 *Working Together to Safeguard Children : A guide to inter-agency working to safeguard and promote the welfare of children.* (Department of Health et al , 1999) replaced the previous version of *Working Together Under the Children Act 1989* (Home Office et al.1991). It makes clear that if an initial assessment indicates that a child may be 'in need' as defined by s 17 of the Children Act 1989, but there are no substantial concerns that the child may be suffering, or at risk of suffering significant harm, the *Framework for the Assessment of Children in Need and their Families* (Department of Health, 2000) provides a framework for a core assessment of a child's health and development, and the parents' capacity to respond to their child's needs. Time will be needed to judge the impact of this development.